

REMARKS

Claims 1-6 and 7-13 are pending in the application, are rejected, and are at issue.

Applicant traverses the rejection of claim 12 as being directed to non-statutory subject matter.

Claim 12 is directed to a machine-readable medium containing instructions for activities. This claim is not directed to storing mental steps on a medium. It is directed to a medium, which is itself a physical device.

Claim 12 defines statutory subject matter following the recently issued Examination Guidelines for Computer-Related Inventions. Particularly, IV.B.1(a), at page 9, specifies: "In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the medium which permit the data structure's functionality to be realized, and is thus statutory". Claim 12 specifies a machine readable medium containing instructions. The instructions are defined as being accessible by an information device. The instructions comprise data structures as defined in the guidelines. Thus, the claim defines structural and functional interrelationships which permit the data structure's functionality to be realized and thus claim 12 is statutory.

The rejection under §101 ought be withdrawn.

Applicants traverse the rejection of claims 1-6 and 11-13 as obvious over Ho et al. "Minimizing the number of tardy jobs for m parallel machines" in view of Spoltore et al. 2004/0015971.

By this Amendment, independent claim 1 is amended to incorporate the limitations of objected to claim 7. Therefore, claims 1-6 should now be allowed, as should claim 8 which depends from claim 1. Moreover, objected to claim 9 is rewritten in independent form so that it and its dependent claim 10 should be allowed.

Independent claim 12 specifies a machine readable medium containing instructions for activities. The instructions in the machine-readable medium are accessible by an information device and comprise initializing a job such to create a set of on time jobs, a set of late jobs and a set of jobs to be scheduled, selecting a job with a minimum value based on due dates and processing requirements and if the selection results in a tie between a plurality of jobs then selecting a job from the plurality of tied jobs with a highest order size and adding the selected job to the set of on time jobs, determining if the set of on time jobs will not exceed scheduled due dates, and modifying the set of on time jobs if the set of on time jobs exceeds the scheduled due dates.

Independent claim 12 is amended to incorporate a limitation similar to allowable claim 1. Particularly, claim 12 specifies that if a selection results in a tie between a plurality of jobs, then selecting a job from the plurality of jobs with the highest order size. There is no disclosure or suggestion of such feature in either of the cited references, as supported by the allowability of claim 1. Therefore, claim 12 should be allowed.

Independent claim 13 specifies a device for providing a representation of user screens for a human machine interface (HMI) comprising means for initializing a job set to create a set of on time jobs, a set of late jobs and a set of jobs to be scheduled. Means are provided for selecting a

job with a minimum value based on due dates and processing requirements and if the selection results in a tie between a plurality of jobs then selecting a job from the plurality of tied jobs with a highest order size and adding the selected job to the set of on time jobs. Means determine if the set of on time jobs will not exceed scheduled due dates. Means provided for modifying the set of on time jobs if the set of on time jobs exceeds the scheduled due dates.

Claim 13 is believed allowable for the same reasons discussed relative to claims 1 and 12. Particularly, the references, alone or in any proper combination, do not disclose any device selecting a job based on order size. As such, no combination of the references results in the claimed invention. Therefore, claim 13 is not obvious.

For the above reasons, claims 1-6 and 11-13 are believed allowable and withdrawal of the rejection is requested.

Reconsideration of the application and allowance and passage to issue are requested.

Respectfully submitted,

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